



State of Louisiana
DEPARTMENT OF ENVIRONMENTAL QUALITY
OFFICE OF THE SECRETARY

December 15, 2011

Arthur A. Elkins, Jr., Inspector General
Environmental Protection Agency
Ariel Rios Building
1200 Pennsylvania Avenue, NW
Mail Code: 2410T
Washington, DC 20460

Re: Report No. 12-P-0113: EPA Must Improve Oversight of State Enforcement

Dear Mr. Elkins:

On December 9, 2011, EPA's Office of Inspector General (OIG) released a report entitled "EPA Must Improve Oversight of State Enforcement." I want to highlight a number of errors and omissions that we will address in more detail in subsequent correspondence. For instance, the report fails to acknowledge or account for:

- 14,454 enforcement actions (e.g., Notices of Deficiency, Notices of Violation, and Warning Letters) taken by LDEQ, but not tracked by EPA;
 - 18,521 facility assessments conducted after Hurricanes Katrina and Rita in 2005 and Gustav and Ike in 2008;
 - the fact that EPA's enforcement database does not count inspections or enforcement penalties issued to non-permitted facilities;
 - EPA's reduction in its major facility inspection goal from 100 percent to 50 percent in 2006 such that additional resources could be focused on minor sources;
 - differences in state permitting programs which drastically impact the number of sources an agency has to permit, inspect, and enforce; and
 - the tremendous improvements in ambient air and water quality realized in the recent past.
- Regarding air quality, the 8-hour ozone design value for the Baton Rouge area has decreased from 95 parts per billion (ppb) in 2005 to 78 ppb in 2010. In fact, in 2009, the EPA Regional Deputy Administrator declared, "Today, Baton Rouge's air is the cleanest it has been in over a generation."
 - LDEQ's 2010 Louisiana Water Quality Inventory: Integrated Report shows that for the fifth consecutive reporting cycle, Louisiana's water quality has improved. The primary contact recreation ("swimming") use continued to show improvement, with 83.8 percent of the designated water body subsegments fully supporting it, this being the highest value ever achieved. Likewise, secondary contact recreation ("boating") improved to 97.2 percent, again the highest value ever achieved.

Mr. Arthur A. Elkins, Jr.
December 15, 2011
Page 2

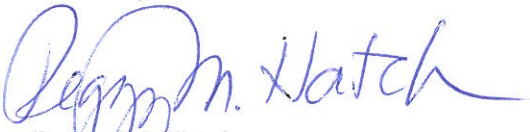
Moreover, EPA's own comments reveal that the agency concurs with LDEQ's initial observations. According to EPA:

[T]he metrics relied on by the Inspector General in this draft Report are overly simplistic, and in some cases inaccurate, thereby resulting in erroneous conclusions regarding individual state enforcement performance. The use of limited data presents an incomplete picture of state enforcement programs, and fails to provide an accurate evaluation of the quality or other contextual aspects of complex state enforcement performance. Although we sympathize with the desire to keep it simple, we are concerned the Report, as currently presented, will give the public a false impression of state performance by publishing both inaccurately positive and inaccurately negative state evaluations.¹

In sum, the report relies on erroneous calculations, an incomplete database, and flawed logic to reach faulty conclusions that misrepresent LDEQ's ability to administer and enforce the environmental laws of this state. Further, unsubstantiated conjecture such as Louisiana's alleged "poor performance" being attributed to "a culture in which the state agency is expected to protect industry" is simply irresponsible and patently offensive to the dedicated employees of the department.

Additional correspondence from LDEQ will be forthcoming. Should you have any questions concerning this matter, please contact me at (225) 219-3950.

Sincerely,



Peggy M. Hatch
Secretary

/bj

¹ p. 43